

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BARBARA M. VACANTI,
PERSONAL REPRESENTATIVE OF
THE ESTATE OF MILO VACANTI,

Plaintiff,
vs.

SUNSET FINANCIAL SERVICES,
INC., and BRYAN S. BEHRENS,

Defendants.

8:08-CV-436

ORDER

BARBARA M. VACANTI,
PERSONAL REPRESENTATIVE OF
THE ESTATE OF MILO VACANTI,

Plaintiff,
vs.

SUNSET FINANCIAL SERVICES,
INC., and BRYAN S. BEHRENS,

Defendants.

8:09-CV-44

ORDER

This matter is before the Court on the stipulation and joint motions for dismissal without prejudice (case no. 8:08-cv-436 filing [374](#); case no. 8:09-cv-44 filing [294](#)) of the plaintiff's claims and Sunset Financial Services' cross-claims against Bryan S. Behrens. As the Court previously stated in its order of June 11, 2013 (case no. 8:08-cv-436 filing [373](#)), the parties are not precluded by the automatic bankruptcy stay from voluntarily dismissing their claims against Behrens, as such a dismissal is not a "continuation" of a proceeding against the debtor within the meaning of [11 U.S.C. § 362\(a\)\(1\)](#). See *Dennis v. A.H. Robins Co., Inc.*, 860 F.2d 871, 872 (8th Cir. 1988); see also

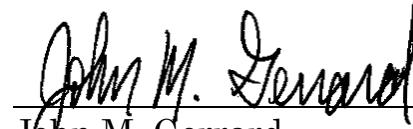
O'Donnell v. Vencor Inc., 466 F.3d 1104, 1110-11 (9th Cir. 2006). Accordingly, the parties' motions will be granted pursuant to Fed. R. Civ. P. 41(a)(2).

IT IS ORDERED:

1. The moving parties' stipulation and joint motions for dismissal without prejudice (case no. 8:08-cv-436 filing [374](#); case no. 8:09-cv-44 filing [294](#)) are granted.
2. The plaintiff's claims and Sunset Financial Services' cross-claims against Bryan S. Behrens are dismissed without prejudice.

Dated this 26th day of July, 2013.

BY THE COURT:



John M. Gerrard
United States District Judge